

CRR-391-2020

Date of decision: 07.02.2020

M/S TIRUPATI TRADERS

...PETITIONER

VERSUS

M/S KUNAL TRADING COMPANY
AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURIPresent: Mr. Susheel Gautam, Advocate
for the petitioner.

VIVEK PURI, J. (ORAL)

The petitioner has instituted a complaint under Section 138 of Negotiable Instruments Act against the respondents. The petitioner had moved an application under Section 311 Cr.P.C. for summoning of witness from HDFC Bank i.e. the Banker of the complainant to establish the fact that the cheque was in fact presented on 25.11.2016 i.e. within a period of three months from the date on which the cheque was drawn.

It has been stated that a credit entry of Rs. 1,15,000/- has been reflected in the statement of account. However, the cheque was dishonored and a debit entry was recorded on 28.11.2016 and on that day, the bank had issued the memo with regard to the dishonor of the cheque. It has also been stated that the cheque has not been dishonored for the reason that it has been presented beyond the validity period.

As per Section 311 Cr.P.C., the additional evidence can be allowed at any stage of the trial. In the peculiar facts and circumstances of the case, the proposed evidence appears to be essential for a just decision of the case. The case

In these circumstances, the petition is allowed and the trial Court is directed to accord two effective opportunities to the petitioner to produce the additional evidence as sought through the application under Section 311 Cr.P.C. The petition is being disposed of without issuance of notice to the respondents. In the event, the petitioner feels aggrieved in any manner he can approach this Court within a period of one month.

07.02.2020
renubala

(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No